

TITLE: RIGHTS OF PERSONS RECEIVING SERVICES

PURPOSE: This policy is set forth to:

- establish guidelines within The Center for Health Care Services (Center) as they pertain to client abuse, neglect, and exploitation, of any person receiving services from the local authority, providers, agents or affiliates.
- describe the principles for local authorities to follow, thus ensuring the reporting, investigation, and prevention of abuse, neglect, and exploitation.
- ensure and establish guidelines pertaining to clients receiving services; thus ensuring the client is aware of their rights, definition and process for reporting abuse, neglect, and exploitation, the notification process and the process of appeal.

This is a revised policy which supercedes policy 6.3 dated May 30, 2006.

[Key Words: e.g., Client Rights, Abuse, Neglect, Exploitation, Prevention, Prohibition, Reporting and Investigation]

POLICY STATEMENT:

The Center promotes a therapeutic environment that respects the dignity and upholds the rights of every person served such that the abuse, neglect, and exploitation of any person served are prohibited.

POLICY ELABORATION:

I. RIGHTS OF PERSONS SERVED

The Center shall ensure that the rights of individuals served shall be protected in accordance with State and Federal mandates. Persons served will be treated with dignity and respect and they will be informed of their rights and the process of appeal upon entry into services by assigned Center staff. Client rights are not to be limited or denied except by legally approved methods such as behavior modification therapies, court order, statute, rules, or other approved means that ensures due process for the individual served.

II. DEFINITIONS OF ABUSE

- A. Abuse is any act or failure to act performed knowingly, recklessly, or intentionally, including incitement to act, which caused or may have caused physical injury or death to a person served. Abuse includes but is not limited to:
1. Any act of inappropriate or excessive force or corporal punishment, regardless of whether the act results in an injury to a person served.
 2. Any use of chemical or bodily restraints not in compliance with federal and state law and regulations.
 3. Any sexual abuse as defined in Chapter 417.503 of the Texas Administrative Code (TAC).
 4. Any act or use of verbal or other communication (including gestures) to include cursing, vilifying, or degrading a person served and/or threatening a person served with physical or emotional harm.

B. Neglect means a negligent act or omission by any person responsible for providing services, which caused or may have caused physical or emotional injury or death to a person served, or which placed a person served at risk of physical or emotional injury or death. Neglect includes but is not limited to:

1. The failure to establish or carry out an appropriate individual program plan or treatment plan for a specific person served.
2. The failure to provide adequate nutrition, clothing, or health care to a specific person served.
3. The failure to provide a safe environment for a specific person served, including the failure to maintain adequate numbers of appropriately trained staff.

C. Exploitation means the illegal or improper act or process of using a person served or the resources of a person served for monetary or personal benefit, profit or gain.

I. TRAINING OF ALL CENTER FOR HEALTH CARE SERVICES EMPLOYEES, AGENTS, CONTRACTORS AND AFFILIATES IN IDENTIFYING, REPORTING, AND PREVENTING ABUSE, NEGLECT, AND EXPLOITATION OF PERSONS SERVED.

A. All new employees/agents/contractors/affiliates shall receive client rights training prior to performing their duties, and annually thereafter. There will be written documentation regarding the subject matter, staff will be

tested for competency, and proof of the course completion will be included in each employee's record.

- B. Center staff providing direct services to/having contact with client will also complete required training in Satori Alternatives to Managing Aggression (SAMA) or other approved certified training in the safe management of verbally and physically aggressive behavior as approved by the QA Department prior to performing their employment duties, and annually thereafter. Records of required training's shall be retained in staff training files.
- C. In the event a contractor/agent or affiliate is utilized; each contract provider will provide written acknowledgement of compliance regarding required training to the Center's Contract Monitor or designee.

IV. REPORTING RESPONSIBILITIES OF ALL THE CENTER FOR HEALTH CARE SERVICES EMPLOYEE, AGENTS, CONTRACTOR OR AFFILIATES

- A. Each employee/agent/contractor/affiliate who suspects or has knowledge that a person served is being abused, neglected, or exploited, shall make a verbal report to the Texas Department of Family & Protective Services (TDFPS) immediately, if possible, but in no case more than one hour after suspicion or after learning of the incident, by calling 1-800-647-7418 and if it is an ICF/MR facility the individual must also call the Department of State Health Services (DSHS)/Department of Aging and Disability Services (DADS) at 1-800-252-5400.

- B. If the person making the allegation is not an employee/agent/contractor/affiliate (e.g., a person served or family member), staff shall assist the person in making the report, if necessary.
- C. A written report (Center Incident Report) or computer generated Incident Report, will be prepared and submitted to the Director of Quality Assurance within 24 hours of the verbal report.
- D. Failure to report an incident of abuse, neglect, or exploitation within the allotted time frame is a violation of the TAC Code which could be criminal in nature, and subject the employee/agent/contractor/affiliate to disciplinary action, administrative action, and/or criminal prosecution.

REFERENCES/BIBLIOGRAPHY:

- a) Abuse, Neglect, and Exploitation in TDMHMR Facilities, Chapter 417, Subchapter K., Chapter 404E, Protection of Client and Staff, Subchapter G 303 (36) or 309 (b)
- b) The Center for Health Care Services Employee Handbook
- c) Texas Department of State Health Services
- d) Texas Department of Family & Protective Services, 40 TAC Chapter 711
- e) Texas Department of Aging and Disability Services, Long Term and Regulatory Services
- f) Department of Assistive and Rehabilitative Services

OFFICE OF PRIMARY RESPONSIBILITY:

Office of the Director of Client Rights Protection